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UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 THOMAS VINCENT GIRARDI and
17 CHRISTOPHER KAZUO KAMON,

18 Defendants.

No. CR 23-00047-JLS

GOVERNMENT'S RESPONSE TO DEFENDANT
GIRARDI'S EX PARTE APPLICATION TO
SET BRIEFING SCHEDULE ON
CHRISTOPHER KAMON'S MOTION TO
EXCLUDE EVIDENCE OF OTHER ACTS

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20 Plaintiff United States of America, by and through its counsel
21 of record, the United States Attorney for the Central District of
22 California and Assistant United States Attorneys Scott Paetty and Ali
23 Moghaddas, hereby files its response to defendant Girardi's ex parte
24 application to set briefing schedule on Christopher Kamon's motion to
25 exclude evidence of other acts (Dkt. 190).

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1 This response is based upon the attached memorandum of points
2 and authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: May 27, 2024

Respectfully submitted,

5 E. MARTIN ESTRADA
6 United States Attorney

7 MACK E. JENKINS
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/
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MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Girardi applies ex parte for a briefing schedule on defendant Kamon's motion to exclude other acts evidence (Dkt. 190), which defendant Kamon filed on May 23, 2024 (Dkt. 189).¹ Defendant Kamon's motion was in response to the government's Rule 404(b) notice to introduce such evidence at trial against defendant Kamon. (See Dkt. 191-1.) Specifically, on February 28, 2024, the government gave notice to the defense that it intended to introduce evidence of defendant Kamon's separate fraud, as charged in Case No. 23-CR-24-JLS, as inextricably intertwined evidence and/or relevant evidence pursuant to Rule 404(b). (Id.) As articulated in the government's notice, evidence of defendant Kamon's separate theft of monies from the Girardi Keese law firm, which the government alleges was done unbeknownst to defendant Girardi, is directly relevant to proving, inter alia, defendant Kamon's motive, knowledge, and intent in the overall scheme charged in Case No. 23-CR-47-JLS. (Id. at 2.) It is the government's theory, in part, that defendant Kamon was complicit in defendant Girardi's theft and misappropriation of client settlement funds given defendant Kamon's access to Girardi Keese's accounts, which he surreptitiously stole and used for his own illicit gain.

Based on prior meet and confers on this topic, the government understood that defendant Kamon intended to file a motion to exclude this evidence (or the government would alternatively file a motion

¹ Defendant Kamon filed an amended motion on May 27, 2024 (Dkt. 191) that contained no substantive changes and only added a certificate of compliance.

1 for its admission).² The government also understood that defendant
2 Girardi would seek to separately introduce such evidence at trial as
3 well, although the government would oppose the admissibility of such
4 evidence in any trial against defendant Girardi only, if the case is
5 severed over the government's objection.³

6 Given the current schedule, and that the Court is already set to
7 hear argument on the pending motions related to the juror
8 questionnaire (Dkt. 186) and Dr. Chui (Dkt. 188) on June 20, the
9 government believes that the briefing schedule and argument should
10 remain joined with the pending motions. The current schedule is more
11 efficient and provides sufficient time for the parties to incorporate
12 the Court's ruling, which will impact the government's case-in-chief
13 and defendants' respective trial strategies. Conversely, holding a
14 third hearing, as proposed by defendant Girardi, (see Dkt. 190 at 2
15 (requesting a third, separate hearing on July 5 or 12, in addition to
16 the presently scheduled hearing on June 20 and the existing hearing
17 on pretrial motions on July 26)), only serves to unnecessarily expend
18 resources and delay these proceedings.

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21 ² The parties did not engage in discussions on whether defendant
Kamon intended to file his motion by the motion's deadline or sooner.

22 ³ The government should be allowed to introduce this evidence
23 against defendant Kamon for the reasons stated above, and in its
forthcoming opposition to defendant Kamon's motion. However,
24 defendant Girardi does not have any legitimate basis to introduce
this evidence, especially in a trial without defendant Kamon, as it
would only serve to mislead the jury and obfuscate defendant
25 Girardi's role in the larger scheme. Indeed, evidence that defendant
Kamon surreptitiously stole money from Girardi Keese at the same time
26 that defendant Girardi was deceiving clients through false and
misleading letters, emails, and voicemails neither mitigates nor
27 exculpates defendant Girardi's conduct. As previously noted,
defendant Girardi was unaware of defendant Kamon's separate theft.
28 Thus, this evidence has no relevance to defendant Girardi's
culpability (or purported lack thereof).

1 Accordingly, it is the government's preference to keep defendant
2 Kamon's motion (Dkt. 191) on calendar for June 20, 2024, the same
3 date the Court intends to consider the parties' additional pending
4 motions, and that any opposition to defendant Kamon's motion should
5 be filed by the current deadline, i.e., May 31, 2024.